IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

WP(C).No. 28109 of 2006(U)

PETITIONER:

M/S.RELIANCE COMMUNICATIONS LTD.,
A&P ARCADE, SAHODARAN AYYAPPAN ROAD,
KADAVANTHARA, REP. BYITS CIRCLE MANAGER (LEGAL)
AND AUTHORISED SUGNATORY V.K.SAJITH.

BY ADV. SRI.V.G.ARUN

RESPONDENTS:

1.THE VARKALA MUNICIPALITY,
REP. BY ITS SECRETARY.

2.THE SECRETARY,
VARKALA MUNICIPALITY,
THIRUVANANTHAPURAM.

BY ADV. SRI.J.S.AJITHKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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W.P.(C)No.28109 of 2006

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Dated: 28th March, 2007

JUDGMENT

Ext.P8 order issued by the 1st respondent-Municipality directing the writ petitioner-Mobile Telephone Company to stop the construction of a mobile telephone tower within the area of the 1st respondent-Municipality till clarifications are received from the Chief Town Planner is under challenge. The petitioner also seeks a writ of mandamus commanding the 1st respondent-Municipality to permit the petitioner to construct the mobile telephone tower within the municipal area.

2. Adv.J.S.Ajith Kumar, Standing Counsel takes notice on behalf of the 1st respondent-Municipality. Though Mr.Ajith Kumar justifies Ext.P8 as one issued in public interest, I am afraid that the issue is covered against the Municipality in view of the judgment of the Division Bench of this court in **Reliance Infocom Ltd. v. Chemanchery Grama Panchayat** (2006(4) KLT 695). I had occasion to go through the affidavit sworn to on behalf of the Atomic Energy Regulatory Board before the Bombay High Court and also the report submitted by the World Health Organisation regarding the evil effects of radiation from mobile telephone towers on the health of neighbouring people. The affidavit is to the effect that the Atomic

Energy Regulatory Board has nothing to do with the issue and that the radiation from the mobile telephone towers is relatively less. The affidavit submitted by the Atomic Energy Regulatory Board was in fact considered by the Division Bench in the aforesaid decision. Considering the observations of the Division Bench of this court in **Reliance Infocom Ltd. v. Chemanchery Grama Panchayat** (supra) and the stand taken by the Atomic Energy Regulatory Board and also the findings in the report submitted by the World Health Organisation, I am of the view that the apprehension of the citizenry of the 1st respondent-Panchayat that there will be serious hazards to their health on account of radiation emanating from the mobile tower to be installed by the petitioner are irrational. The Writ Petition accordingly will stand allowed. Ext.P8 order is quashed and the 1st respondent-Municipality is directed to issue permit to the petitioner for constructing the mobile telephone tower provided the petitioner is possessed all consents and certificates which are statutorily required.

srd **PIUS C.KURIAKOSE, JUDGE**